

Atty Vallis, James H., sole practitioner, Kingsburg (for Petitioner Magdalena Rangel, Administrator)

Status Hearing Re: Approval of Sale

DOD: 9/14/2009	MAGDALENA RANGEL , sister, was appointed Administrator with Full IAEA with bond of \$60,000.00 on 7/12/2010. Amended Order for Probate was signed on 8/18/2010 granting the Administrator Limited IAEA without bond and Letters issued on 8/18/2010.	NEEDS/PROBLEMS/COMMENTS Page 1B is the Petition by Personal Representative for Authority for Spouse to Purchase Real Property of the Estate. Continued from 9/10/2012.
Cont. from 062111, 011012, 040312, 071012, 091012	Minute Order dated 8/9/2010 from the status hearing on filing of the proof of bond states the Court grants the request for no bond, but then grants only limited authority in lieu of full authority.	
Aff.Sub.Wit.	Report on Status of Residence Sale filed 2/9/2011 for the status hearing on 2/22/2010 (continued from 2/7/2011) for the sale of the real property states that Petitioner contacted a broker and was informed that due to the condition of the home, the broker declined to list the property until habitability corrections are made.	
Verified	Minute Order dated 2/22/2011 states the Court orders a reappraisal (Order on Report of Status of Residence Sale signed on 3/2/2011 reiterates the order for reappraisal). Matter is set on 6/21/2011 for status hearing on approval of sale.	
Inventory	Reappraisal for Sale filed on 4/18/2011 indicates a reappraised value of the ½ interest in real property at \$42,500.00 . (Note: Final Inventory and Appraisal filed 9/1/2010 indicates the real property was valued at \$55,000.00 .)	
PTC	Affidavit of Publication filed on 5/24/2011 shows publication was made in the Fresno Bee indicating the Kingsburg real property was to be sold on 5/23/2011 at private sale at the office of Attorney Vallis for \$85,000.00 cash on an "as is" basis.	
Not.Cred.	Minute Order dated 6/21/2011 [Judge Gallagher] states Counsel advises the Court that the property has not been sold. Counsel further advises that they had a buyer, but the bank withdrew its support. The Court is informed that there are seven heirs. The Court continues the matter to 1/10/2012. Counsel is directed to file a report of sale if there is a sale of the property in the interim.	
Notice of Hrg	Minute Order dated 1/10/2012 states Counsel informs the Court that the highest bid received on the house is \$40,000.00 .	
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/S		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		Reviewed by: LEG
		Reviewed on: 10/9/12
		Updates:
		Recommendation:
		File 1A - Castro

Atty Vallis, James H., sole practitioner, Kingsburg (for Petitioner Magdalena Rangel, Administrator)

**Petition by Personal Representative for Authority for Spouse to
Purchase Real Property of the Estate (Probate Code §§ 9881, 9883)**

DOD: 9/14/2009		<p>MAGDALENA RANGEL, sister and Administrator with Limited IAEA Authority, is Petitioner.</p> <p>Petitioner states:</p> <ul style="list-style-type: none"> The only asset of the estate is an undivided ½ interest in the residence located in Kingsburg; Reappraisal for Sale filed 4/18/2011 shows the value of the estates interest in the property as \$42,500.00; It is to the advantage, benefit, and best interest of the estate that Petitioner's spouse, FRANCISCO RANGEL, be allowed to purchase the ½ interest in the residence for \$42,500.00 cash, in that it will pay the major creditor's claim against the estate, Medi-Cal; Real estate sales in Kingsburg are slow, and the sale of ½ of a residence makes for a difficult sale as the highest offer on the whole property through Kingsburg Realty was \$40,000.00; Because the Medi-Cal lien is for \$37,697.86 [please refer to Creditor's Claim filed 7/16/2010], and the expenses of administration will exceed the difference from \$42,500.00, Petitioner has contacted the other [six] heirs of the estate, and they are aware that after the expenses of estate administration and payment of the Medi-Cal claim there will be no funds left for distribution. <p>Petitioner prays for an Order authorizing Petitioner's spouse, FRANCISCO RANGEL, to purchase the residence in Kingsburg for the amount of \$42,500.00 cash.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Note: Probate Code §§ 10300 <i>et seq.</i> provide the procedure for a <i>Report of Sale and Petition for Order Confirming Sale of Real Property</i>, which mandates specific requirements for the sale of real property. Given the history and unique circumstances of this estate matter (as noted on Page 1A), the Petitioner's request for authority to sell the real property to her spouse appears to constitute a valid basis upon which the Court may choose to make an exception as provided for under Probate Code § 10503 to certain specific code requirements for the Petitioner (despite that she possesses Limited IAEA authority), such as publication, reappraisal within one year prior to the date of the sale confirmation hearing, and the 15-day posting requirement, particularly in light of the fact that Petitioner presents good evidence for the necessity of sale as required under Probate Code § 10310. Specifically, Probate Code § 10302 allows the court to shorten time of notice and of posting notice to at least 5 days prior to the hearing on the sale. Court may require <u>continuance of this matter</u> to allow for the additional time for notice.</p> <p align="center">~Please see additional page~</p>	
Cont. from				
<input type="checkbox"/>	Aff.Sub.Wit.			
<input checked="" type="checkbox"/>	Verified			
<input type="checkbox"/>	Inventory			
<input type="checkbox"/>	PTC			
<input type="checkbox"/>	Not.Cred.			
<input checked="" type="checkbox"/>	Notice of Hrg			
<input checked="" type="checkbox"/>	Aff.Mail			W/
<input type="checkbox"/>	Aff.Pub.			
<input type="checkbox"/>	Sp.Ntc.			X
<input type="checkbox"/>	Pers.Serv.			
<input type="checkbox"/>	Conf. Screen			
<input type="checkbox"/>	Letters			
<input type="checkbox"/>	Duties/S			
<input type="checkbox"/>	Objections			
<input type="checkbox"/>	Video Receipt			
<input type="checkbox"/>	CI Report			
<input type="checkbox"/>	9202			
<input checked="" type="checkbox"/>	Order			
<input type="checkbox"/>	Order Confirming			X
<input type="checkbox"/>	Status Rpt			
<input type="checkbox"/>	UCCJEA			
<input type="checkbox"/>	Citation			
<input type="checkbox"/>	FTB Notice			

Reviewed by: LEG
Reviewed on: 10/9/12
Updates:
Recommendation:
File 1B - Castro

NEEDS/PROBLEMS/COMMENTS, continued:

Based upon the comments above, the **Court may require Petitioner to provide the following:**

1. Pursuant to Probate Code § 10308(c), need proof of **at least 5 days' notice** of hearing to purchaser, **FRANCISCO RANGEL**. *[Note: Proof of Service by Mail filed 9/13/2012 does not show notice was mailed to the purchaser as required.]*
2. Pursuant to Probate Code §§ 10300, 10302, and 10308(c), need proof of clerk's posting the notice of sale **at least 5 days prior** to the hearing on the sale of the property, as required by Probate Code §§ 10308(c) and 1230(a).
3. Need proof of **5 days'** mailed service of the *Notice of Hearing* for the Department of Health Care Services along with a copy of the *Petition*, per the *Request for Special Notice* filed 7/16/2010, pursuant to Probate Code §§ 1250 and 1252.
4. Need mandatory-use Judicial Council form *Order Confirming Sale of Real Property [DE-265]*, containing the legal description of the real property to be sold, and the manner of vesting title to the purchaser. *[Note: This Judicial Council form is required **in addition** to the proposed order previously submitted by Petitioner, which will also be considered by the Court for approval.]*

Age: 75		BRUCE BICKEL was appointed Conservator of the Estate on 3-29-12 with additional powers under Probate Code §2591 pursuant to the order.	NEEDS/PROBLEMS/ COMMENTS:
Cont. from 073012		Inventory and Appraisal Partial #1 was filed on 3-28-12 reflecting \$1,500,000.00 in real property in Los Angeles.	Note: Kate Singh (niece) and Hubert Mitchell (brother) were appointed Co-Conservators of the Person on 3-29-12. Bruce Bickel was appointed Conservator of the Estate.
Aff.Sub.Wit.			
Verified		Inventory and Appraisal Partial #2 was filed on 7-25-12 reflecting \$271,182.47 cash.	1. Need Final Inventory and Appraisal.
Inventory			
PTC		Inventory and Appraisal Partial #3 was filed on 9-26-12 reflecting \$323,000.00 in real property in Kern and Los Angeles Counties.	2. Current bond is \$966,000.00 (increased after sale of real property pursuant to Minute Order 3-29-12). The Court may require clarification regarding the adequacy of this bond with reference to the I&A total once the Final I&A is filed.
Not.Cred.			
Notice of Hrg		<p>Status Report filed 10-10-12 states that the remaining inventory and appraisal in this matter will report the value of the Conservatee's personal property and stocks. Efforts to confirm the extent of the Conservatee's ownership interest have been hampered by the fact that the Conservatee evidently owned his securities directly and did not utilize the services of a broker or financial institution. As a result, evidence of ownership has been gleaned from review of his personal papers. As the court may be aware, the Conservatee's important papers, some including original stock certificates, were found in his residence mixed among other non-essential papers and refuse. The Co-Conservator of the Person (and Conservatee's brother) Hubert Mitchell worked to sort the papers prior to the residence being sold. He has been working with RBC Wealth Management to confirm the Conservatee's ownership of securities in several companies and transfer them to a conservatorship account. Thus far, they have managed to confirm and transfer his ownership of securities and shares in ten (10) companies with an approx. value of \$29,000.00. Evidence of ownership in 32 other companies has been found and the Conservator of the Estate and RBC have been working together to confirm. This information has not been readily available in some cases, as certificated shares have not been found, complicating the ability to confirm his ownership and transference. Additionally, Mr. Bickel must be substituted as the owner of record prior to the release of any sensitive financial information to him, further delaying the confirmation of the extent of the Conservatee's ownership in certain securities.</p> <p>Based on conversations with RBC Wealth Management, Mr. Bickel estimates that he will have confirmed the information prior to the end of the year. Mr. Bickel requests that the matter be continued for 90 days for completion of the Final Inventory and Appraisal.</p>	
Aff.Mail			
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order			
Aff. Posting			
Status Rpt	X		
UCCJEA			
Citation			
FTB Notice			

Reviewed by: skc

Reviewed on: 10-9-12

Updates: 10-10-12

Recommendation:

File 2 - Mitchell

Age: 5 months		Temporary expires 08/06/2012		NEEDS/PROBLEMS/COMMENTS:
		ROSE MARIE BALLARD, maternal grandmother, is petitioner		
		Father: UNKNOWN (ROBIN LEE GALLEGOS)		Continued from 8/6/12. ICWA form given to Petitioner. Matter continued. As of 10/9/12 the following issues remain:
Cont. from 070512, 080612		Mother: LEANNE MARIE BALLARD, consents and waives notice		
	Aff.Sub.Wit.		Paternal grandparents: Unknown	<ol style="list-style-type: none"> 1. Need proof of personal service fifteen (15) days prior to the hearing of the Notice of Hearing along with a copy of the Petition for Appointment of Guardian or consent and waiver of notice or declaration of due diligence for: <ul style="list-style-type: none"> • Father (Robin Lee Gallegos) 2. Need proof of service fifteen (15) days prior to the hearing of the Notice of Hearing along with a copy of the Petition for Appointment of Guardian or consent and waiver of notice or declaration of due diligence for: <ul style="list-style-type: none"> • Paternal grandparents (Unknown) <p style="text-align: center;">Please see page 2</p>
✓	Verified		Maternal grandfather: Wess Ballard, served by mail on 05/15/2012	
	Inventory			
	PTC			
	Not.Cred.			
✓	Notice of Hrg	W	Petitioner alleges: Mother is currently on trial for allegedly stabbing her boyfriend. The mother asked the Petitioner to care for her child. The child has been in the care of the petitioner since shortly after his birth.	
✓	Aff.Mail			
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			
✓	Conf. Screen		Objection of Robin Lee Gallegos, Father, filed 06/25/2012 – The mother is currently incarcerated in Madera County jail. Father filed for custody in Madera County on 04/26/2012 prior to the filing of this guardianship petition. Mother responded in Father's petition and requested a blood test. He tested on 06/06/2012 and is awaiting the results. Mother is incarcerated for attempted murder and the Father is the victim.	
✓	Letters			
✓	Duties/Supp			
✓	Objections			
	Video Receipt			
✓	CI Report		Court Investigator Samantha Henson's report filed 06/28/2012.	
	9202			
✓	Order		Court Investigator Samantha Henson's report filed 07/31/2012	
	Aff. Posting			
	Status Rpt			
✓	UCCJEA			
	Citation			
	FTB Notice			
				Reviewed by: KT
				Reviewed on: 07/30/2012
				Updates: 08/02/2012
				Recommendation:
				File 3 - Ballard

NEEDS/PROBLEMS/COMMENTS (continued):

3. Court Investigator report indicates that child may have American Indian Ancestry. Therefore, a *Notice of Child Custody Proceeding for Indian Child* (Form ICWA-030), must be served together with copies of petition and all attachments, including this form, on the child's parent; any Indian custodian; any Indian tribe that may have a connection to the child; the Bureau of Indian Affairs (BIA), and possibly the U.S. Secretary of the Interior, by certified or registered U.S. Mail, return receipt requested. (Please see Probate Code 1460.2, and CA Rules of Court 7.1015)
4. Per item 3 above, Petitioners will need to return the completed copy of the *Notice of Child Custody Proceeding for Indian Child* to the probate clerk. The probate clerk will then mail the notice to the required agencies.
5. After mailing, per item 4 above, need proof of service of notice, including copies of the notices sent and all return receipts and responses received, pursuant to Probate Code 1460.2(d).

Atty Walters, Jennifer L. (for Guardian – Maternal Grandmother)

Atty Collins, Angelina Denise (Pro Per – Petitioner- Mother)

Petition for Visitation

Nathaniel Collins Age: 2		ANGELINA DENISE COLLINS , mother, is petitioner. LANA PRATT , maternal grandmother, was appointed temporary guardian of the minors on 06/22/2012. Father: NATHANIEL COMENGER Paternal Grandfather: Kurt Ricardo Paternal Grandmother: Not Listed Maternal Grandfather: Not Listed	NEEDS/PROBLEMS/COMMENTS: Note: A court trial is scheduled in this matter for 10/15/2012 at 10:30 a.m. for the appointment of guardian. Continued from 9/27/12. Minute Order states the Court defers taking any action in this matter until 10/15/12. The Court orders the Court Investigator to conduct a further investigation to determine who is in the home of the guardian and what conflict the mother and the guardian are having between them. 1. Need proof of service fifteen (15) days prior to the hearing of the Notice of Hearing along with a copy of the Petition for Visitation on the following: <ul style="list-style-type: none"> • Lana Pratt (Temporary Guardian) • Nathaniel Comenger (Father) • Kurt Ricardo (Paternal Grandfather) • Paternal Grandmother (Not Listed) • Maternal Grandfather (Not Listed)
Malichi Collins Age: 1			
Cont. from 092712			
<input type="checkbox"/> Aff.Sub.Wit.			
<input checked="" type="checkbox"/> Verified			
<input type="checkbox"/> Inventory			
<input type="checkbox"/> PTC			
<input type="checkbox"/> Not.Cred.			
<input type="checkbox"/> Notice of Hrg	<input checked="" type="checkbox"/>		
<input type="checkbox"/> Aff.Mail	<input checked="" type="checkbox"/>		
<input type="checkbox"/> Aff.Pub.			
<input type="checkbox"/> Sp.Ntc.			
<input type="checkbox"/> Pers.Serv.			
<input type="checkbox"/> Conf. Screen			
<input type="checkbox"/> Letters			
<input type="checkbox"/> Duties/Supp			
<input type="checkbox"/> Objections			
<input type="checkbox"/> Video Receipt			
<input type="checkbox"/> CI Report			
<input type="checkbox"/> 9202			
<input type="checkbox"/> Order	<input checked="" type="checkbox"/>		
<input type="checkbox"/> Aff. Posting			
<input type="checkbox"/> Status Rpt			
<input type="checkbox"/> UCCJEA			
<input type="checkbox"/> Citation			
<input type="checkbox"/> FTB Notice			
		Petitioner states: she arrived at the guardian's residence to visit the children, the guardian was rude and refused to let the petitioner/mother see her children. Petitioner/mother is concerned about the children going to mental disorder classes, she believes them to be healthy. Petitioner would prefer that a relative go with her to her mother's home as a disagreement broke out and she does not want to be lied to. Note: Current visitation order pursuant to minute order of 08/21/2012: The Court orders that mother, Angelina Collins may visit with the children everyday between noon and 5pm or earlier as may be agreed upon by the parties. Court Investigator Dina Calvillo's Supplemental Report filed on 10/10/12	
		Reviewed by: KT Reviewed on: 10/11/12 Updates: Recommendation: File 4 - Collins	

Petition to Determine Succession to Real Property as to Property at 360 E Houston Street in Coalinga (Prob. C. 13151)

DOD: 3/5/2011		MINDY CASTILLO , daughter, is petitioner.	NEEDS/PROBLEMS/COMMENTS:
		40 days since DOD.	
		No other proceedings.	<p>Continued from 9/11/12. Minute Order states the Court grants the petition as to all properties except the property located at 360 E. Houston, Coalinga. The Court orders that a case number be assigned to the objector's 850 Petition. (Please see case no. 12CEPR00808 on page 6 of this calendar).</p>
Cont. from 081612, 091112		Decedent died intestate.	
	Aff.Sub.Wit.		
✓	Verified		
	Inventory		
	PTC		
	Not.Cred.		
✓	Notice of Hrg		
✓	Aff.Mail	W/O	
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
<p>I & A - \$89,017.38</p> <p>Petitioner requests Court determination that decedent's 100% interest in real property located at 760 E. Valley Street in Coalinga, 50% interest in real property located at 360 E. Houston Street in Coalinga, 100% interest in a 2005 Chevy pick-up and a 1992 Chevy pick-up and an investment account pass to her pursuant to intestate succession.</p> <p>Objection to Petition to Determine Succession to Real Property filed by Carol Ackerman on 9/7/12. Objector states she has filed a Petition under Probate Code §850, seeking to have the court determine that the Decedent was holding title to the real property located at 360 E. Houston in Coalinga as a constructive trustee for the objecting party. The objecting party requests that the Court continue the hearing to the date set for the Objector's Petition under §850 [Set for hearing on 10/15/12 at 9:00 a.m. in Dept. 303].</p>			
			Reviewed by: KT
			Reviewed on: 10/10/12
			Updates:
			Recommendation:
			File 5 - Castillo

DOD: 3/5/2011		CAROL ACKERMAN is Petitioner.	NEEDS/PROBLEMS/COMMENTS: 1. Need order
		Petitioner states Mindy Castillo alleges she is the sole heir of the decedent, Miguel Castillo.	
Cont. from		Petitioner claims the right and title to the real property located at 360 E. Houston Street in Coalinga, CA.	
	Aff.Sub.Wit.		
✓	Verified		
	Inventory	Petitioner's claims are based upon the fact that Petitioner, acting under erroneous information, believed that she would lose her Medicare eligibility because she owned property located at 360 E. Houston. As a result of this misinformation, Petitioner executed a deed for the property transferring title to Sara Lynn Orozco and to the decedent.	
	PTC		
	Not.Cred.		
✓	Notice of Hrg		
✓	Aff.Mail	W/	
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen	If Petitioner had known the truth, that she would have still been eligible for Medicare benefits while retaining title to the property, she never would have transferred the property to Sara Lynn Orozco and the decedent.	
	Letters		
	Duties/Supp	At all times relevant, the decedent was aware that the only reason Petitioner was transferring a ½ interest in the property to the decedent was to allow Petitioner to receive Medicare benefits. Petitioner alleges that at no time did the decedent intend to hold title to the property in any manner other than as a constructive trustee for the Petitioner. (Exhibit A of the petition is a copy of the Grant Deed dated 10/26/2006 transferring the subject property from Petitioner to Sara Lynn Orozco and the decedent.)	
	Objections		
	Video Receipt		
	CI Report		
	9202		
	Order	X	
	Aff. Posting		
	Status Rpt		
	UCCJEA	Petitioner resides in the property and has resided there since she acquired the property in 1988.	
	Citation		
	FTB Notice	Petitioner prays for an Order as follows: <ol style="list-style-type: none"> For an order determining that the decedent held an undivided ½ interest in the real property located at 360 E. Houston, Coalinga, CA, as a constructive trustee for Petitioner. For an order directing that title of an undivided ½ interest in the property is in the name of Petitioner. 	

Reviewed by: KT

Reviewed on: 10/10/12

Updates:

Recommendation:

File 6 - Castillo

Age:			NEEDS/PROBLEMS/COMMENTS:
DOD:			
Cont. from			
	Aff.Sub.Wit.		
	Verified		
	Inventory		
	PTC		
	Not.Cred.		
	Notice of Hrg		
	Aff.Mail		
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
			<p align="center"><u>OFF CALENDAR</u></p> <p align="center">Inventory & Appraisal filed 08/21/12</p>
			Reviewed by: JF
			Reviewed on: 10/09/12
			Updates:
			Recommendation:
			File 7 - Lee

**Petition for Appointment of Probate Conservator of the Person (Prob. C. 1820,
1821, 2680-2682)**

Age: 41	EDWINA WOOLARD , mother and current Conservator of the Person with Medical Consent powers, is Petitioner and requests that Marion Austin and H.F. Rick Leas of Central Valley Professional Fiduciary Services be appointed as successor co-Conservators of the Person with Medical Consent powers without bond.	NEEDS/PROBLEMS/COMMENTS: Court Investigator Advised Rights on 10/04/12.
Cont. from	Westamerica Bank (formerly County Bank) was appointed successor Conservator of the Estate on 09/02/08 and continues to act in that capacity.	
<input type="checkbox"/> Aff.Sub.Wit.		Reviewed by: JF Reviewed on: 10/09/12 Updates: Recommendation: File 8 - Hood
<input checked="" type="checkbox"/> Verified		
<input type="checkbox"/> Inventory		
<input type="checkbox"/> PTC		
<input type="checkbox"/> Not.Cred.		
<input checked="" type="checkbox"/> Notice of Hrg		
<input checked="" type="checkbox"/> Aff.Mail	w/	
<input type="checkbox"/> Aff.Pub.		
<input type="checkbox"/> Sp.Ntc.		
<input type="checkbox"/> Pers.Serv.		
<input checked="" type="checkbox"/> Conf. Screen		
<input checked="" type="checkbox"/> Letters		
<input checked="" type="checkbox"/> Duties/Supp		
<input type="checkbox"/> Objections		
<input checked="" type="checkbox"/> Video Receipt		
<input checked="" type="checkbox"/> CI Report		
<input type="checkbox"/> 9202		
<input checked="" type="checkbox"/> Order		
<input type="checkbox"/> Aff. Posting		
<input type="checkbox"/> Status Rpt		
<input type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice	<p>A Capacity Declaration has not been filed because the Conservatee has already been adjudged to lack capacity and the current Conservator had Medical Consent powers.</p> <p>Petitioner states: The conservatee suffered a traumatic brain injury in a car accident as a child and as a result she needs assistance in coping with everyday life and caring for her two children. She needs assistance in contacting companies for services in her home, making appointments for herself and her children, and understanding the medical services she needs on a regular basis and the medications she is prescribed. The conservators could assist the conservatee in regularly checking on the conservatee and making sure her home is clean and in good repair and that the conservatee is taking care of herself and her children. The Conservators would work with the conservatee's life coach in making sure all of the conservatee's needs and concerns are met.</p> <p>Court Investigator Samantha Henson filed a report on 10/05/12. The report states that it appears that conservatorship of Erin's person continues to be necessary, the least restrictive alternative available and in her best interest. Erin does not object to the appointment of Ms. Austin and Mr. Leas and they appear to be appropriate successor co-conservators; however, the Court may wish to consider the Public Guardian's office. The Public Guardian's Office charges \$96.00/hr. for their Deputy's time and \$76.00/hr. for their clerical staff as opposed to the \$100 - \$120 per hour proposed by Ms. Austin and Mr. Leas. It may be that the Public Guardian could be more cost effective for Erin's estate, which ultimately benefits Erin in all aspects of her life.</p>	

Clarice age: 4 yrs		<u>There is no temporary.</u> <u>No temporary was requested.</u>		NEEDS/PROBLEMS/COMMENTS:	
		MARIA TRINIDAD ARREDONDO , maternal grandmother, is petitioner.		This petition is as to <u>CLARICE AGUIRRE</u> only. Guardianship of Isaac Jr. and Marcus was previously granted to their paternal grandparents (they have a different father than Clarice does).	
Cont. from		Father: JOSE AGUIRRE			
	Aff.Sub.Wit.		Mother: EUGENIA PALACIO – personally served on 10/8/12 – 7 days notice and not the required 15 days notice.	1. Need proof of personal service of the Notice of Hearing along with a copy of the Petition or Consent and Waiver of Notice or Declaration of Due Diligence on: a. Jose Aguirre (father)	
✓	Verified		Paternal grandfather: Jose Aguirre	2. Need proof of service of the Notice of Hearing along with a copy of the Petition or Consent and Waiver of Notice or Declaration of Due Diligence on: a. Jose Aguirre (paternal grandfather)	
	Inventory		Paternal grandmother: Myrna Colon	3. Eugenia Palacio (mother) and Myrna Colon Gonzalez (paternal grandmother) were served on 10/8/12, 7 days notice and not the required 15 days notice.	
	PTC		Gonzalez - personally served on 10/8/12 - 7 days notice and not the required 15 days notice.	4. Proof of service indicates that Eugenia Palacio and Myrna Colon Gonzalez were both personally served by the same person on 10/8/12 at 4:00 p.m. at two different addresses. Court may inquire how it is possible to be at the Fresno County Jail and 6012 N. Roosevelt at the same time.	
	Not.Cred.		Maternal grandfather: Deceased.		
	Notice of Hrg	X	Petitioner alleges: The father is going to be deported to Mexico and mom is in mental health treatment. The father and all of his family have substance abuse and Petitioner states she does not want her granddaughter close to drugs.		
	Aff.Mail	X	Court Investigator Samantha Henson's Report filed on 10/5/12.		
	Aff.Pub.				
	Sp.Ntc.				
	Pers.Serv.	X			
✓	Conf. Screen				
✓	Letters				
✓	Duties/Supp				
	Objections				
	Video Receipt				
	CI Report				
	9202				
✓	Order				
	Aff. Posting				
	Status Rpt				
✓	UCCJEA				
	Citation				
	FTB Notice				
				Reviewed by: KT	
				Reviewed on: 10/10/12	
				Updates: 10/11/12	
				Recommendation:	
				File 9 - Cerda	

Atty LeFors, Teri (pro per Guardian/paternal step-grandfather)
 Atty LeFors, Michael E. (pro per Guardian/paternal grandmother)
 Atty Basquez, Patricia Viola (pro per Petitioner/mother)
 Atty Adams, Bryce S (pro per Petitioner/father)

Petition for Termination of Guardianship

Brooklyn age: 4 yrs	PATRICIA BASQUEZ, mother, and BRYCE ADAMS, father, are petitioners.	NEEDS/PROBLEMS/COMMENTS: 1. Need Notice of Hearing. 2. Need proof of service of the Notice of Hearing on: a. Teri LeFors (guardian/paternal grandmother) b. Mike LeFors (guardian/paternal step-grandfather) c. Teresa Basquez (maternal grandmother) d. Brent Adams (paternal grandfather)
Nevaeh age: 3 yrs		
	TERI LeFORS, paternal grandmother and MIKE LeFORS, paternal step-grandfather, were appointed co-guardians on 8/11/09.	
Cont. from	Paternal grandfather: Brent Adams Maternal grandfather: Ed Basquez – <i>consents and waives notice.</i> Maternal grandmother: Teresa Basquez	
Aff.Sub.Wit.		
✓ Verified	Current visitation order (per Minute Order dated 3/27/12): Visitation for the father Bryce Adams and the mother Patricia Basquez shall be on alternating weekends from Sunday at 6:00 p.m. until Sunday at 6:00 p.m. Pick-up and delivery of the children to be arranged by mother and father. The children are not to be driven in any vehicle unless licensed and insured, and the children are to be in appropriate safety restraints. No party shall have any amount of alcohol in their body while transporting the children.	
Inventory		
PTC	Petitioners allege: the children are in their care half of the month. They would like their children back with them.	
Not.Cred.		
Notice of Hrg	Court Investigator Julie Negrete's Report filed 10/5/12.	
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
✓ Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		

Reviewed by: KT
Reviewed on: 10/9/12
Updates:
Recommendation:
File 10A - Adams

Atty LeFors, Teri (pro per Petitioner/guardian/paternal grandmother)
 Atty LeFors, Michael E. (pro per guardian/paternal step-grandfather)
 Atty Basquez, Patricia Viola (pro per mother)
 Atty Adams, Bryce S (pro per father)

Request for Modification of Visitation

Brooklyn age: 4 yrs		<p>TERI LEFORS, Guardian/paternal grandmother, is petitioner.</p> <p>Petitioner alleges: Since the last hearing, they have had growing concerns that the current visitation schedule is not in the best interests of the minors.</p> <p>The children have had a change in sleep patterns that include trouble falling asleep, restless sleep, crying more often and crabbiness during the day that was not part of their normal behavior before the extended visits.</p> <p>During the visits the parents are not giving the girls their medications as prescribed. In addition, Petitioner learned that the parents had taken the girls for dental exams in December 2011 without Petitioner's knowledge or consent.</p> <p>Petitioner states she enrolled Brooklyn in an afternoon pre-kindergarten class at Cederwood Elementary and Nevaeh was enrolled in a morning pre-kindergarten class at Mickey Cox Elementary.</p> <p>On the first day of school for Nevaeh, Mike (co-guardian) went to the school to take her picture. Patricia (mother) arrived with Nevaeh ½ hour late. When Patricia saw Mike she called 911 to have him removed stating that he had no right to be there and was interfering with her visit.</p>	NEEDS/PROBLEMS/COMMENTS:	
Nevaeh age: 3 yrs				
Cont. from				
	Aff.Sub.Wit.			
✓	Verified			
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	Order	X		
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
	FTB Notice			
		<p>Please see additional page</p>	<p>Reviewed by: KT</p> <p>Reviewed on: 10/9/12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 10B – Adams</p>	

There will be many occasions where they [the guardians and the parents] will have to communicate with each other to discuss daily homework, school functions, parent/teacher conferences and other school related business and there seems to be little hope that they will be able to effectively communicate with Bryce and Patricia. Petitioner states they are fearful that this type of drama will impact Brooklyn and Nevaeh's education.

Petitioner further states that she was informed by Bryce that they will not have money for gas to get Brooklyn and Nevaeh to school and back to their house every day that the girls are in their care. Petitioner states they offered to keep the girls during those visitation times and were to that they expected the guardians to transport them from the school to the parent's home. Of course the guardian has no plans of doing that. A request was made by Bryce and Ed Basquez [maternal grandfather] to have the guardian's give Bryce and Patricia money each month.

Due to the facts outlined above the Guardian requests that the current visitation be modified to every other weekend from Friday at 6:00 p.m. to Sunday at 4:00 p.m. and every Wednesday from 6:00 p.m. to 8:00 p.m. to begin the week of the court hearing. This schedule will allow the girls to continue a relationship with their parents but more importantly, will get the girls back into a normal routine with less stress in their lives.

Lily, 6 Stone, 3 <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;"></td> <td style="width: 80%;">Aff.Sub.Wit.</td> <td style="width: 10%;"></td> </tr> <tr> <td>✓</td> <td>Verified</td> <td></td> </tr> <tr> <td></td> <td>Inventory</td> <td></td> </tr> <tr> <td></td> <td>PTC</td> <td></td> </tr> <tr> <td></td> <td>Not.Cred.</td> <td></td> </tr> <tr> <td>✓</td> <td>Notice of Hrg</td> <td></td> </tr> <tr> <td>✓</td> <td>Aff.Mail</td> <td>W</td> </tr> <tr> <td></td> <td>Aff.Pub.</td> <td></td> </tr> <tr> <td></td> <td>Sp.Ntc.</td> <td></td> </tr> <tr> <td></td> <td>Pers.Serv.</td> <td></td> </tr> <tr> <td></td> <td>Conf. Screen</td> <td></td> </tr> <tr> <td></td> <td>Letters</td> <td></td> </tr> <tr> <td></td> <td>Duties/Supp</td> <td></td> </tr> <tr> <td></td> <td>Objections</td> <td></td> </tr> <tr> <td></td> <td>Video Receipt</td> <td></td> </tr> <tr> <td></td> <td>CI Report</td> <td></td> </tr> <tr> <td></td> <td>9202</td> <td></td> </tr> <tr> <td></td> <td>Order</td> <td></td> </tr> <tr> <td></td> <td>Aff. Posting</td> <td></td> </tr> <tr> <td></td> <td>Status Rpt</td> <td></td> </tr> <tr> <td></td> <td>UCCJEA</td> <td></td> </tr> <tr> <td></td> <td>Citation</td> <td></td> </tr> <tr> <td></td> <td>FTB Notice</td> <td></td> </tr> </table>		Aff.Sub.Wit.		✓	Verified			Inventory			PTC			Not.Cred.		✓	Notice of Hrg		✓	Aff.Mail	W		Aff.Pub.			Sp.Ntc.			Pers.Serv.			Conf. Screen			Letters			Duties/Supp			Objections			Video Receipt			CI Report			9202			Order			Aff. Posting			Status Rpt			UCCJEA			Citation			FTB Notice		<p>KENNETH and CAROLYN KESTERSON, maternal great-grandparents and Guardians appointed 7-12-10, are Petitioners.</p> <p>Mother: MIKAELA MENNUCCI Father: NATHAN LIRETTE</p> <p>Paternal grandfather: UNKNOWN Paternal grandmother: ELEANOR LIRETTE Maternal grandfather: LAWRENCE MENNUCCI Maternal grandmother: NATALIE KJAR</p> <p>Petitioners state that on 9-4-12 the father was arrested for possession of marijuana and pled to the charge of violation of probation. He was ordered to enroll in Re-referral Batterers Treatment Program which he had led the court to believe that he had already completed.</p> <p>Petitioners state the reason they were granted guardianship to get the children away from observing physical abuse and drug and alcohol addiction in their parents and raise them in a safe environment. Petitioners are concerned for the father to have unsupervised visits. Right now he gets one day after school until bedtime every other week and an overnight every other weekend.</p> <p>Petitioners state the father has not been honest with them. He was working but lost his job. They found out because they called and were told he doesn't work there. When he was back in town he still did not tell them, so they confronted him with this information and the information about his arrest. He didn't feel that aspect of his life had anything to do with him seeing his children or being a good father.</p> <p>Petitioners cite an incident on 8-2-12 when the father was late taking and returning the children and they had no way to reach him because his cell phone was out of service. Petitioners were very concerned for the children's safety. Petitioners state the father has been late many times over the past few months and this causes anxiety for the children and messes up anything they had planned.</p> <p>Petitioners do not feel his mother is responsible to supervise visitation since she has never bothered to inform them of anything that is going on that affects the children. Petitioners also feel the father should have to have random drug checks because it would not be a safe environment for the children if he has drugs in his system.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Note:</u> Father's visitation schedule per Minute Order 7-9-12 is every other weekend as his work schedule permits.</p> <p><u>Note:</u> Further status hearing on visitation is set on 11-27-12.</p> <p><u>Note:</u> On 11-29-11, the Court ordered all parties to enroll and participate in therapy. At further status hearing on 1-31-12, the Court made further orders regarding therapy and healthcare coverage and commended the father regarding the steps he has taken toward progress, e.g., completing the domestic violence course and working toward substance abuse completion. See Minute Order 1-31-12.</p> <p>Reviewed by: skc</p> <p>Reviewed on: 10-9-12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 11 - Uhrich</p>
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Petition for Appointment of Guardian of the Person (Prob. C. 1510)

Juliana Diaz Age: 13		TEMPORARY EXPIRES 08/13/2012 GRACE ESPINOSA , maternal aunt, is Petitioner Father: ANTONIO EFRAIN DIAZ , declaration of due diligence filed 06/20/2012 – Court dispensed with notice per minute order dated 8/13/12. Mother: JOANNA DIAZ , declaration of due diligence filed 06/20/2012 – present in Court on 8/13/12. Paternal grandfather: Antonio Diaz, Deceased Paternal grandmother: Unknown, Deceased Maternal grandfather: Feliciano Martinez, Deceased Maternal grandmother: Consuelo Martinez, Deceased Petitioner alleges: parents are unable to care for the children due to their drug abuse. Parents have been incarcerated at least three times as far as petitioner knows. Father is currently incarcerated for possession and has probation hold. Mother is homeless and was previously arrested but released. Petitioner fears if the parents get the children and are arrested again that CPS will get involved and take the children from the family. Court Investigator Jennifer Young's report filed 08/06/2012.	NEEDS/PROBLEMS/COMMENTS: Continued from 8/13/12. Minute Order states the Court orders visitation between the children and their mother, Joanna Diaz as follows: visitation shall be on the 1 st , 3 rd and 5 th weekend of every month from Friday at 5:00 p.m. until Sunday at 6:00 p.m. There is to be no drugs or alcohol around during the visitation and telephone calls made by the mother Joanna Diaz shall be made no later than 8:00 p.m. Parties are ordered not to speak ill of one another around the children pending the next hearing. The Court directs that a court investigator contact mother, Joanna Diaz. The Court orders Joanna Diaz to have proof of her attendance at AA/NA with her with the investigator meets with her. Court Investigator Jennifer Young to provide supplemental Investigation Report.
Nathan Diaz Age: 9 Cont. from 081312			
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✓	Verified		
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✓	Notice of Hrg		
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✓	Letters		
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✓	UCCJEA		
<input type="checkbox"/>	Citation		
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			Reviewed by: KT Reviewed on: 10/10/12 Updates: Recommendation: File 12 – Diaz

Petition for Appointment of Guardian of the Person (Prob. C. 1510)

Audrina Aguilar Age: 4		TEMPORARY EXPIRES 10-15-12 JOE and FRANCES AGUILAR , Paternal Grandparents, are Petitioners. Father: NICOLAS AGUILAR <i>- Consent and Waiver of Notice filed 8-14-12</i> Mother: ALEXIS BUSTINZA <i>- Two (2) Declarations of Due Diligence filed 8-14-12</i> <i>- Notice dispensed 8-28-12</i> Maternal Grandfather: Pete Bustinza Maternal Grandmother: Liz Bustinza Petitioners state the mother has abandoned the children and has not made any contact since 7-13-12. She has a meth problem and a bench warrant for her arrest issued 6-13-12. Her cell phone is disconnected. The children need a stable, safe home environment with Petitioners who have raised them. Court Investigator Charlotte Bien filed a report on 9-25-12.	NEEDS/PROBLEMS/COMMENTS: <u>Minute Order 8-28-12:</u> The Court dispenses with further notice to the mother unless and until her whereabouts become known. The Court grants the petition. The temporary expires on 10/15/12. The General Hearing remains set for 10/15/12. The Court orders the parties to pay the \$285.00 filing fee. Parties are authorized to make payments. Petition is granted before Court Trial. Order signed. Temporary Guardianship Letters extended to: 10/15/12 <u>Note:</u> Pages 13A and 13B are Petitioners' requests for reconsideration of fee waivers. 1. Need Notice of Hearing. 2. Need proof of service of Notice of Hearing with a copy of the Petition at least 15 days prior to the hearing per Probate Code §1511 <u>or</u> consent and waiver of notice <u>or</u> declaration of due diligence on maternal grandparents: - Pete Bustinza - Liz Bustinza <u>Note:</u> Petitioners' Declarations of Due Diligence regarding the mother indicate that Petitioners have been in contact with the maternal grandmother Liz Bustinza.	
Nicolas Aguilar Age: 1				
	Aff.Sub.Wit.			
✓	Verified			
	Inventory			
	PTC			
	Not.Cred.			
	Notice of Hrg			X
	Aff.Mail			X
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	Pers.Serv.			X
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✓	Letters			
✓	Duties/Supp			
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	Video Receipt			
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✓	Order			
	Aff. Posting			
	Status Rpt			
✓	UCCJEA			
	Citation			
	FTB Notice			
		Reviewed by: skc Reviewed on: 10-9-12 Updates: Recommendation: File 13A - Aguilar		

Atty Aguilar, Joe B.

Atty Aguilar, Francis A.

Reconsideration of Fee Waiver of Francis Aguilar

			NEEDS/PROBLEMS/COMMENTS: <u>CONFIDENTIAL</u>
	Aff.Sub.Wit.		
	Verified		
	Inventory		
	PTC		
	Not.Cred.		
	Notice of Hrg		
	Aff.Mail		
	Aff.Pub.		
	Sp.Ntc.		
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	Conf. Screen		
	Letters		
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	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
			Reviewed by:
			Reviewed on:
			Updates:
			Recommendation:
			File 13B – Aguilar

13B

Atty **Aguilar, Francis A.**

Notice to Appear for Reconsideration of Fee Waiver of Joe B. Aguilar

13C
Case No. 12CEPR00711

**14 Jose Morales-Mancilla, Jr., Daniel Morales-Mancilla and Jesus F. Garcia
(GUARD/P)**

Atty Posos, Moises (pro per – non-relative/Petitioner)
Atty Diaz, Herlinda (pro per – non-relative/Petitioner)

Petition for Appointment of Guardian of the Person (Prob. C. 1510)

Jose, 6	TEMPORARY EXPIRES 10/15/12		NEEDS/PROBLEMS/COMMENTS:
Daniel, 5	<p>MOISES POSOS and HERLINDA DIAZ, non-relatives, are Petitioners.</p> <p>Father (all): UNKNOWN</p> <p>Mother: LAURA MANCILLA – Consent & Waiver of Notice filed 08/13/12</p> <p>Paternal grandparents: UNKNOWN - Declaration of Due Diligence filed 09/07/12</p> <p>Maternal grandparents: UNKNOWN - Declaration of Due Diligence filed 09/07/12</p> <p>Petitioners state that they have been neighbors to the mother for the past 7 years and have cared for the children for the majority of their lives. Petitioners state that the mother has a serious drug problem and has inflicted severe emotional and physical abuse on the children. Most recently, cigarette burns and visible bruises. Child protective services placed the children in Petitioners care. Petitioners state that guardianship is necessary for the children's protection.</p> <p>DSS Social Worker Keith Hodge filed a report on 10/03/12.</p>		
Jesus, 9 months			<p>1. Need Notice of Hearing.</p> <p>2. Need proof of personal service at least 15 days before the hearing of Notice of Hearing with a copy of the Petition for Appointment of Guardian of the Person or Consent & Waiver of Notice or Declaration of Due Diligence for: - Fathers of all children (unknown)</p> <p>3. Declaration of Due Diligence filed 09/07/12 states that all grandparents are unknown. If diligence is not found, need proof of service by mail at least 15 days before the hearing of Notice of Hearing with a copy of the Petition for Appointment of Guardian of the Person or Consent & Waiver of Notice for: - all paternal grandparents - all maternal grandparents</p>
Cont. from			
Aff.Sub.Wit.			
✓ Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg	x		
Aff.Mail	x		
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Pers.Serv.	x		
✓ Conf. Screen			
✓ Letters			
✓ Duties/Supp			
Objections			
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✓ Order			
Aff. Posting			
Status Rpt			
✓ UCCJEA			
Citation			
FTB Notice			

Reviewed by: JF
Reviewed on: 10/09/12
Updates:
Recommendation:
File 14 – Morales-Mancilla, Morales & Garcia

Pro Per Martin, Diane E. (Pro Per Petitioner)
 Pro Per Goertzen, Sheryl Ann (Pro Per Petitioner)
 Pro Per Burgin, Cynthia Arlene (Pro Per Petitioner)

Petition to Determine Succession to Real Property (Prob. C. 13151)

DOD: 7/15/2012		DIANE E. MARTIN, SHERYL ANN GOERTZEN, and CYNTHIA ARLENE BURGIN, children, are Petitioners.		NEEDS/PROBLEMS/COMMENTS: 1. Attachment 11 to the Petition does not state as required the description of the personal property that Petitioners seek to have determined as passing to them, nor the amount of the Decedent's interest in the subject real and personal property. 2. Item 9(a) of the proposed order does not include as required the description of the personal property that Petitioners seek to have determined as passing to them. <i>[Note: Only real property is described; an attachment to the proposed order may be required to allow space for descriptions.]</i> Notes: • Item 9(a) of the Petition is incomplete regarding Decedent's spouse, and Attachment 14 to the Petition does not list the name and date of death of Decedent's spouse pursuant to Local Rule 7.1.1(D). However, the information has been obtained from the attached copy of Decedent's Will and copy of Certificate of Death of the Decedent's spouse. • Item 9(b) of the proposed order does not state each petitioner's specific property interest. Item 9(b) of the proposed order has been altered to specify that each petitioner is entitled to a 1/3 interest in the property. Additionally, caption of proposed order has been interlineated to strike the portion stating the Petitioner is the attorney for the Executor of Decedent's estate.
		40 days since DOD.		
Cont. from		No other proceedings.		
	Aff.Sub.Wit.			
✓	Verified			
✓	Inventory			
	PTC			
	Not.Cred.			
✓	Notice of Hrg	I & A - \$ 99,324.00 (real and personal property)		
✓	Aff.Mail	W /	Will dated 6/30/1990 devises entire estate to her husband, EARL BURGIN; if he fails to survive, then entire estate to her three children in equal shares.	
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			
	Conf. Screen			
	Letters	Petitioner requests Court determination that Decedent's [unstated interest] in real property located at 638 E. Myra Ave., Reedley, and Decedent's [unstated interest] in personal property consisting of cash and a vehicle, passes to the Petitioners in equal shares pursuant to Decedent's Will.		
	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
	FTB Notice			

Atty **Magness, Marcus D. (for Dennis A. Maxwell – Administrator – Petitioner)**Atty **Knudson, David N. (for Lucia Kennedy, Guardian ad Litem for Michael Coit, minor son - Objector)****Petition for Order Directing Transfer of Possession of Mobile Home to the Estate of Marvin M. Coit [Prob. C. 850(a)(2)(D)]**

DOD: 7-1-11		<p>DENNIS A. MAXWELL, Administrator with Will Annexed, is Petitioner.</p> <p>Petitioner states at the time of his death, Decedent owned a mobile home situated within one of his ranches, adjacent to his farm office and shop, in which he had allowed LUCIA KENNEDY to reside prior to his death. Decedent lived in a different home on a different parcel of property.</p> <p>Since his death, Ms. Kennedy has continued to reside in the home and has refused to sign a lease to the property and to allow access to the interior to inventory any of Decedent's personal property that may be contained therein.</p> <p>Marv Coit, Inc., a corporation owned entirely by the estate, operates out of the office and shop adjacent to the mobile home. The utilities of the mobile home are not separately metered and all utilities have been paid by the corporation. Ms. Kennedy has contributed no funds toward the payment of any gas, electricity, water, maintenance, or other costs associated with the mobile home.</p> <p>Ms. Kennedy is the mother of Decedent's youngest child, Michael, who does not reside there. Michael is currently a student at The Orme School, a private boarding school in Arizona.</p> <p>Ms. Kennedy purportedly claims a possessory interest in the mobile home. She apparently lived with Decedent at the mobile home on and off before his death, and now claims a right to remain there rent-free.</p> <p>Petitioner states Ms. Kennedy has no family allowance claim because she was not a spouse. Petitioner has offered to lease the mobile home to her, but this offer was rejected through her attorney. Without a lease, she has no rightful claim to possession.</p> <p>Petitioner requests an order under Probate Code §850 directing Ms. Kennedy to immediately turn over possession of the mobile home to Petitioner as Administrator.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Continued from 7-16-12, 8-20-12</u></p> <p>Note: Lucia Kennedy, represented by Attorney David Knudson, was appointed Guardian ad Litem on 9-29-11 for Michael Coit (Decedent's minor son with Ms. Kennedy).</p> <p>Note: Ms. Kennedy individually has also filed a Declaration Statement of Interest as an interested party.</p> <p>Note: Page 16C is Ms. Kennedy's (as GAL for Michael Kennedy) Petition for Order Setting Aside Exempt Personal Property to Minor Child; Setting Apart Probate Homestead and for Payment of Family Allowance for Minor Child.</p> <p>Note: The Orme School of Arizona filed a Creditor's Claim on 1-6-12 for \$34,664.00. The Administrator filed an allowance of that claim on 3-2-12.</p> <p>Note: Ms. Kennedy filed a Creditor's Claim on 4-9-11 for an amount "to be determined" including approx. 180 acres of real property in Firebaugh, which is developed to almonds and pistachio orchards, the value of the increase in real properties and other investments during their relationship together, for assets sufficient to provide support to herself and their son as promised by Decedent, for damages arising from the breach of Decedent's promises to provide and/or transfer property to her at his death, upon which she relied, and for attorney fees incurred in filing the claim. In the attachment, Ms. Kennedy describes her life together with Decedent since 1996. The attachment also contains reference to various trusts. The Administrator filed a Rejection of Creditor's Claim for "any amount" on 4-30-12.</p>
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PAGE 2

Lucia Kennedy, guardian ad litem of Michael Coit, son of decedent, objects.

Objector states Michael Coit resides in the mobile home and was not properly served. Petitioner alleges that Michael Coit does not reside there. That is incorrect. Even though Michael has been attending boarding school in AZ for the 2011-2012 school year, he has returned to the home for vacation and breaks, and upon the conclusion of the school year in May 2012, he has returned and is living in the residence, which is the only home he has known.

Probate Code §851 requires notice of hearing be personally served. It is unclear whether service was made by counsel on behalf of Lucia Kennedy individually, as guardian ad litem for Michael, or both. However, CCP 416.60 requires service on the minor as well, if over the age of 12. Michael is 15; therefore personal service is required.

Objector states the petition should be abated pending determination of the Petition for Homestead. Petitioner has filed a petition on behalf of Michael Coit to have the mobile home and surrounding property set aside as a probate homestead. It is anticipated that when a probate homestead is granted, Michael will live in the mobile home along with his mother.

Objector requests that this petition be denied or at least abated until a ruling on the probate homestead is made; and that upon presentation of a proper petition for payment of extraordinary compensation, the Court consider appropriate compensation for litigation counsel pursuant to applicable Probate Code and California Rules of Court.

The remainder of the Objection deals with the petition filed at Page 16B of this calendar and is addressed separately. See Page 16B.

DOD: 7-1-11		<p>DENNIS A. MAXWELL, Administrator with Will Annexed, is Petitioner.</p> <p>Petitioner states Decedent is survived by five (5) children by four (4) different women:</p> <ul style="list-style-type: none"> Decedent was married to Roberta E. Coit, who died in 1964. They had one daughter together, Kelly Coit. Next, Decedent married Tonja A. Coit. They had one daughter together, Amy Coit, before divorcing in 1975. In the 1980s, Decedent was engaged to Dayna Valadao, and they had two sons together: Mark Coit and Mitchell Coit. (<i>Mark Coit and Mitchell Coit filed Statements of Interest on 8-24-12</i>) In 1996, Decedent had one son, Michael Coit, with a woman named Lucia Kennedy. <p>At the time of his death, Decedent owned in excess of 1,000 acres of land, approx. 700 of which are planted with almonds and pistachios, and was also the sole shareholder (holding title in the name of the 1981 Trust), director and officer of Marv Coit, Inc., a corporation that provides custom farming services to Decedent's farmland.</p> <p>Petitioner is aware of four (4) separate estate documents executed by Decedent:</p> <ul style="list-style-type: none"> 1981 Trust – The Marvin M. Coit 1981 Revocable Living Trust Agreement 1981 Will – Pour-over to 1981 Trust 1986 Codicil – First Codicil to Will of Marvin M. Coit dated 1986 2005 Trust – Marvin M. Coit Family Trust First Amended Declaration and Agreement of Trust executed in 2005 <p>Petitioner has also located the following <u>unsigned</u> document:</p> <ul style="list-style-type: none"> 1998 Trust – The Marvin M. Coit Family Trust Declaration and Agreement of Trust that contains a "June __, 1998" date. <p>Decedent also had an irrevocable life insurance trust (the "ILIT") created in 1998.</p> <p style="text-align: center;">SEE ADDITIONAL PAGES</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Continued from 7-16-12, 8-20-12; set for trial 1-15-13.</u></p> <p><u>Note: An additional hearing is set for 10-22-12 re: Motion for Order Nunc Pro Tunc.</u></p> <p><u>Minute Order 7-16-12: Matter continued to 8-20-12. Counsel requests that the issue regarding the Instructions to Determine Controlling Testamentary Documents be set for trial with a 1-2 day estimate.</u></p> <p><u>A trial date of 1-15-13 is set, issue to remain on calendar for 8-20-12 for trial confirmation only.</u></p> <p><u>Minute Order 8-20-12: Counsel advises the Court that the summons and complaint were just handed this morning. Matter continued to 10-15-12 to be heard at the end of the calendar. Counsel to submit a stipulation for signature as indicated. Trial remains set for 1-15-13.</u></p> <p><u>See additional pages.</u></p> <p><u>Note: In addition to the children listed by Petitioner, a Statement of Interest was filed 7-12-12 by Marva Critch (Represented by Attorneys Gary Bagdasarian and Steven Shahbazian) states she is also a child of Decedent and entitled to notice and a share of the estate. Birth certificate attached.</u></p> <p>Reviewed by: skc</p> <p>Reviewed on: 10-9-12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 16B - Coit</p>
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<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp		
<input checked="" type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
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<input type="checkbox"/>	UCCJEA		
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<input type="checkbox"/>	FTB Notice		

PAGE 2

Petitioner states that while Decedent created at least one trust during his lifetime, the only asset transferred into such trust(s) was 100% of the issued and outstanding stock of Marv Coit, Inc. His remaining assets were not assigned into the trust and remained in Decedent's name.

With this petition, Petitioner seeks instruction from the Court concerning a number of issues that derive from ambiguities in Decedent's estate planning documents; from questions concerning the expenditure of estate funds to pay for one of Decedent's son's private boarding school and the impact that a claim filed against the estate by or on behalf of such son may have on such payments; and Petitioner seeks authority to pay extraordinary attorneys fees to defend the estate against a lawsuit filed against Decedent before his death. The easiest issue will be addressed first:

Petition for allowance of extraordinary compensation to attorneys for Administrator:

Petitioner states prior to Decedent's death, he was sued by **Lucy Knoeffler** in 10CECG04227. Decedent was, and is, represented by Patrick Gorman, Esq., of Wild, Carter & Tipton. The case is now active and a trial date is fast approaching. Petitioner requests an order from this Court authorizing payment of legal fees incurred in that action.

On 2-1-12, Petitioner served notice on Ms. Knoeffler of her need to timely file a creditor's claim in this estate. The time to file a claim expired on 4-1-12.

On or about 3-28-12, Ms. Knoeffler filed what appears to have been a claim in 10CECG04227, but she did not file a claim in this probate proceeding.

Counsel wrote to her advising her that she had failed to timely file a claim on 4-13-12. No further communication has been received from Ms. Knoeffler.

Petitioner has received an invoice from Wild, Carter & Tipton for fees incurred for services rendered in April 2012, including attendance at mandatory settlement conference and work on a motion for judgment on the pleadings that will be filed as a result of Ms. Knoeffler's failure to timely file a claim. Probate code §10811 provides that extraordinary compensation may be paid for extraordinary services by the attorney for the personal representative in an amount the court determines just and reasonable. There is no question that defending the Administrator and Estate in litigation commenced prior to Decedent's death are legal services extraordinary in nature.

Declaration of Patrick J. Gorman requests \$1,179.00 as just and reasonable compensation. Petitioner requests Court approval to pay this invoice and for instructions concerning a mechanism for monthly approval of invoices for such continued service to avoid doubling the cost of such legal services vis-à-vis Court filing fees.

SEE ADDITIONAL PAGES

Petition for Instructions to Determine Controlling Testamentary Document(s):

Petitioner states the 1981 Will and the 1986 Codicil contain language revoking prior wills/codicils; however, neither the 1981 Trust, 1998 Trust, nor 2005 Trust contain revocation language.

Decedent's testamentary instructions designate beneficiaries as follows:

- **1981 Trust** divides into as many equal shares as there are children, which shares are to be held in trust until the children reach age 30. (That would mean 20% each for Kelly, Amy, Mark, Mitchell, and Michael, with Kelly and Amy receiving their shares outright due to their ages, and the rest held in trust until age 30.)
- **1981 Will** gives all Decedent's tangible property to his children in equal parts, with the residue pouring over to the trustee of the 1981 Trust, as it is amended through the date of Decedent's death.
- **1986 Codicil** amends the 1981 Will by adding two gifts for Decedent's then-fiancé, Dayna Valadao – specifically a home in Hollister and \$150,000.00 cash.
- **1998 Trust [not executed]** gives Ms. Valadao \$250,000.00 with the residue to be distributed to Amy, Mark and Mitchell. Kelly and Michael were left nothing under this instrument.
- **2005 Trust** Section 4.2 provides that the beneficiaries are 25% each to Amy, Mark, Mitchell and Michael. Kelly is left nothing under this instrument.

Pursuant to Section 8.2, each of the named beneficiaries is to receive ½ of their respective share if or when they attain the age of 30 and the balance if or when they attain the age of 35. Under this 2005 Trust, only Amy would receive her distribution immediately. Mark, Mitchell and Michael are all under 30.

- **ILIT** – Amy is the trustee of the ILIT and the beneficiaries are Amy, Mark and Mitchell. Neither Kelly nor Michael is a beneficiary under that document.

Examiner's Note: Kelly and Amy are over 35, Mark and Mitchell are between 18 and 30, and Michael is a minor. Lucia Kennedy was appointed as Guardian ad Litem for Michael in this estate on 9-29-11.

Examiner further notes that notes that Marva Critch, who has filed a Statement of Interest, may also be included as a child under the 1981 Will and 1981 Trust; however, any determination regarding the trust need to occur in a separate trust case, as noted at NEEDS/PROBLEMS/COMMENTS.

Petitioner states Probate Code §21102(a) provides that the intention of the transferor as expressed in the instrument controls the legal effect of the dispositions made in the instrument. When interpreting, the court must be guided by certain principles. Questions of interpretation must lay with the document itself. Petitioner references Probate Code §§ 21120, 21121, 21122, and *Ike v. Doolittle* (1998) 61 Cal.App.4th 51, 73-74 (only where the foregoing rules of interpretation fail will the Court look to extrinsic evidence to resolve ambiguities).

SEE ADDITIONAL PAGES

PAGE 4

Petition for Instructions to Determine Controlling Testamentary Document(s) (Continued):

Petitioner states it is clear that Decedent's testamentary intent evolved over the years between this various documents. In 1981, all children were treated equally. In 1986, he added gifts for Ms. Valadao (Mark and Mitchell's mother). In 1998, he decided not to leave Kelly or Michael anything, but continued to recognize and increased the gift to Ms. Valadao. By 2005, however, he deleted the gift to Ms. Valadao from his trust and added Michael as a beneficiary. Based on documents discovered to date, it is not clear whether the 1998 instrument was ever executed, or whether it was intended to amend the 1981 Trust or create a new trust that supersedes it. The 2005 Trust is clearly intended as an amendment, *but of which trust?*

The only will that appears to have been executed was the 1981 Will, as amended by the 1986 Codicil.

Both the 1981 Will and the 1981 Trust were executed 10-1-81. Thus it is clear that Decedent intended that his probate estate pass to the 1981 Trust, as it was amended before his death. If the 1998 Trust instrument and/or the 2005 Trust instrument created a trust that supersedes the 1981 Trust, then that trust would receive no assets and the Decedent's testamentary intent will be thwarted. If the 1998 Trust instrument and/or the 2005 Trust instrument amend the 1981 Trust, then the Decedent's testamentary intent will be carried out.

Steven J. Roth, an experienced estate planning attorney and CPA, was the attorney retained by Decedent to amend his estate plan in 1998. According to **Fred Sprinz**, Decedent's financial advisor and insurance agent, Mr. Roth was supposed to prepare a document to amend the 1981 Trust. Mr. Roth prepared the ILIT and the 1998 Trust instrument and met with Decedent on 6-9-1998. At the meeting, the ILIT was executed, but the 1998 Trust was not. See declarations.

Examiner's Note: *Mr. Roth's declaration indicates he was not aware of the 1981 Trust when he prepared the 1998 Trust, and it is his understanding that the 2005 Trust amended the 1998 Trust. However, Mr. Sprinz' declaration indicates it was his understanding that Mr. Roth was to prepare documents amending Decedent's prior estate plan, which would be the 1981 Trust.*

Regarding Michael (born in 1996): Petitioner states Decedent was unsure if Michael was his son, as evidenced by the 1998 Trust instrument, which did not leave Michael anything. This led to paternity testing in 1999.

Petitioner states the most plausible inference from these facts is that because of the doubts harbored by Decedent about whether Michael was his son, he did not execute the 1998 Trust instrument, as that would have left Michael nothing. Under the 1981 Trust, by contrast, if Michael did turn out to be his son, he would receive a full share.

Petitioner states it is basic estate planning practice that upon creation of an inter vivos trust, the attorney will create a will that causes any property not transferred during the testator's lifetime to the trust after death. However, where there is already a will that pours into that trust, there is no need to draft a new will. Decedent retained Mr. Roth to amend his existing trust. To carry out those instructions, Mr. Roth prepared both the 1998 Trust instrument and the 2005 Trust instrument. He did not draft a new will. Hence, either the 1998 Trust instrument and the 2005 Trust instrument were intended to amend the 1981 Trust instrument or Mr. Roth made a fundamentally estate planning mistake.

SEE ADDITIONAL PAGES

Petition for Instructions to Determine Controlling Testamentary Document(s) (Continued):

By 2005, Decedent was satisfied that he was Michael's father and had developed a relationship with him; however, he still did not want Kelly to receive any share of his estate. Therefore, he directed that Mr. Roth revise the draft 1998 Trust instrument resulting in the 2005 Trust instrument, which was then executed. See Sprinz declaration.

Because the 1998 Trust was not signed, the 2005 Trust can only amend the 1981 Trust. Hence, the 1981 Will causes the probate estate to pour into the 1981 Trust, as amended by the 2005 Trust instrument. Mr. Roth's only mistake was failing to cross-reference the prior instrument in the latter – a mere scrivener's error.

1986 Codicil: The 1986 Codicil provides a specific bequest of real property and a pecuniary bequest for Decedent's then-fiancé Dayna Valadao. It appears that although they never married, they were still close when he prepared the 1998 Trust instrument that was never signed, because it gave her a larger gift despite the fact that he had fathered a child with Ms. Kennedy two years earlier.

Petitioner notes that at the time of his death, Decedent no longer owned the real property that was devised to Ms. Valadao in the 1986 Codicil; therefore, Petitioner requests a finding that it is adeemed pursuant to Probate Code §21102.

Petition to Determine Heirship pursuant to Probate Code §11700:

Given the various testamentary documents at issue, Petitioner requests that in addition to instructions regarding which testamentary documents control, that the Court issue an order determining the persons entitled to distribution of Decedent's estate.

Examiner's Note: *If this request regarding heirship is meant to determine the persons who will take under the various trust documents then such petition must be brought under a separate trust case pursuant to Probate Code §17000, etc., as noticing and other requirements are different. Trust matters are separate from estate matters, even if the issues overlap.*

SEE ADDITIONAL PAGES

PAGE 6

Petition for Instructions Regarding School Tuition:

Petitioner states that prior to Decedent's death, Decedent executed an "Enrollment Agreement" for the Orme School 2011-2012 academic year for Michael's tuition, room, and board, and paid a deposit. A Creditor's claim was timely filed for the balance, allowed, and paid. Tuition totaled \$40,835.00 for 2011-2012.

Michael is currently in his Freshman year, and Petitioner anticipates Michael will ask to attend The Orme School through graduation. Decedent did not execute any agreement to send Michael to The Orme School through graduation. Indeed, Decedent had told Petitioner that he was going to demand that Michael's mother pay ½ of this cost.

If the Court determines that the probate estate will pass to the 1981 Trust, without amendment, then Michael's share of such trust will be 20% of the residue of the probate estate, which would pass to a separate trust for Michael's benefit and the trustee will have the discretion to use it for his education, taking into consideration all other resources known by the trustee to be available to the child, per the 1981 Trust.

If the Court determines that the probate estate will pass to the 1981 Trust as amended by the 2005 Trust, then Michael's share will be 25% in trust; however, per the 2005 Trust, no principal or income from that trust can be distributed until Michael turns 30.

Petitioner anticipates that Ms. Kennedy will enroll Michael for the 2012-2013 school year and then demand that the probate estate pay 100% of the tuition. Rather than wait until this occurs, placing Michael in a precarious position that could result in dismissal for nonpayment, Petitioner requests instructions as follows:

- a) Should any estate assets be used to pay Michael's future tuition at The Orme School if Ms. Kennedy's Creditor's Claim is found to not constitute a contest of Decedent's Will (see below)?
- b) If so, what percentage should be paid by Ms. Kennedy?
- c) If so, should the share paid by the probate estate be charged as an advance against Michael's share of the residue of the estate, or must his brothers and sisters shares also bear the cost of paying for this rather extravagant private boarding school?

SEE ADDITIONAL PAGES

PAGE 7

Petition for Instructions Regarding Will Contest:

Ms. Kennedy filed a Creditor's Claim in this action in which she demands that she be distributed, free of trust, approx. 180 acres of land planted to pistachios (valued in the Inventory and Appraisal at \$2,185,000); an undetermined sum of money equal to the "value of the increase in the decedent's real properties and other investments attributable to her efforts and support;" for assets sufficient to provide support for herself and her son Michael; for damages for alleged breach of oral contract by Decedent; and for attorney fees and costs. The claim has been denied.

Petitioner states that presumably, Ms. Kennedy expects these assets would be distributed to her and Michael free of any estate tax burdens. Ms. Kennedy has appeared in this matter in her capacity as the Guardian of Michael's Estate [*Examiner's Note: Ms. Kennedy is Michael's Guardian ad Litem – there is no case or order appointing her as guardian of his estate.*] and has made the demands in the Claim on both her and Michael's behalf.

Pursuant to Probate Code §21310(a), a "contest" is "a pleading filed with the court by a beneficiary that would result in a penalty under a no contest clause, if the no contest clause is enforced." A "direct contest" is one that alleges that a probate instrument is invalid for various reasons. A no contest clause in a probate instrument "shall be strictly construed." (§21312).

Petitioner states a creditor's claim can be a "contest" that triggers a no contest clause. *Colburn v. Northern Trust Co.* (2007) 151 Cal.App.4th 439, 447.

The 1981 Will and 1981 Trust contain no contest clauses that are broad and encompass more than standard direct contests to the instrument, defining a "contest" as including filings that seek to alter/impair/set aside the provisions of the instruments.

Ms. Kennedy's Creditor's Claim seeks to have a substantial portion of the estate diverted to her and Michael. Indeed, the land she demands represents approx. 16.5% of the value of the estate. This is directly contrary to the language of the instruments, which provide nothing for Lucia.

If Lucia filed the Creditor's Claim in her capacity as an individual, then she was acting on Michael's behalf when she seeks additional funds for Michael, which, under the 1981 Will and 1981 Trust, would constitute a contest by Michael, and Michael would be entitled to take nothing under either instrument.

In either case, counsel who represents Ms. Kennedy in her capacity as Guardian ad Litem of Michael in this action believes there is not conflict of interest in filing this claim, as he is the one who represents Ms. Kennedy in connection with the Creditor's Claim. This can only be true if the claim was filed on Michael's behalf.

In order to determine whether any share of the probate estate can be used to pay Michael's tuition, the Court must first determine whether the Creditor's Claim is a direct or indirect contest by Michael of the 1981 Will and the 1981 Trust, as amended, if applicable.

Petitioner also filed two Requests for Judicial Notice regarding Ms. Kennedy's appointment as GAL and Creditor's Claim with reference to Evidence Code §§ 451, 452, and 453.

Summons was served on Attorney David Knudson for Ms. Kennedy with reference to this matter.

Examiner's note: Rejection of Creditor's Claim was filed on 4-30-12.

SEE ADDITIONAL PAGES

PAGE 8

Petitioner seeks an Order:

1. Allowing Petitioner to pay extraordinary compensation to his attorneys in connection with the defense of the Decedent and this estate in the Knoeffler litigation;
2. Determining which of the testamentary instruments control(s), and instructing Petitioner accordingly;
3. Determining and declaring the rights of all persons to Decedent's Estate, and all interests in the Estate, and determining to whom distribution of the Estate should be made;
4. Determining whether Ms. Kennedy's/Michael's creditor's claim violates the no contest provisions of the Decedent's operative estate planning documents; and
5. Instructing Petitioner concerning payment for Michael's potential continuation at The Orme School beyond this academic year.

The Proposed Order finds that:

- The Wild, Carter & Tipton invoice, along with future defense fees relating to that action, should be paid from the estate.
- The 1981 Will, as amended by the 1986 Codicil, is valid and constitutes Decedent's last will and testament.
- The 1981 Trust is a valid trust agreement.
- The 1998 Trust was never executed and is therefore not a valid testamentary instrument.
- The 2005 Trust is a valid testamentary document and serves as an amendment to the 1981 Trust.
- The 2005 Trust is the controlling document to the extent its provisions are consistent with the provisions of the 1981 Trust. To the extent its provisions are not inconsistent, the 1981 Trust is controlling.
- The 2005 Trust does not contain a no-contest clause, and as such the no contest clause in the 1981 Trust is controlling.
- Pursuant to the 1986 Codicil, Dana Valadao is entitled to receive certain real property and \$150,000.00. However, because the Decedent no longer owned that real property at his death, that gift is adeemed.
- Lucia Kennedy is the court-appointed Guardian ad Litem of Michael Coit. She filed a creditor's claim in that capacity on Michael's behalf.

The claim seeks to divert Decedent's assets to Ms. Kennedy and Michael COit in a manner inconsistent with the controlling testamentary instruments and constitutes indirect contest by Michael Coit. As a result, according to the applicable no contest language in the controlling testamentary documents, Michael Coit is entitled to inherit nothing from Decedent.

Because Michael Coit is entitled to inherit nothing, no portion of his future boarding school tuition should be paid from Decedent's estate.

SEE ADDITIONAL PAGES

PAGE 9

The Proposed Order orders that:

- *Petitioner shall pay Wild, Carter & Tipton and all future invoices shall be submitted to this Court on an ex parte basis without notice or need for a hearing, and shall be paid from the estate.*
 - *The creditor's claim filed by Lucia Kennedy constitutes an indirect contest by Michael Coit and he is entitled to inherit nothing.*
 - *Dayna Valadao is entitled to receive \$150,000.00.*
 - *Kelly Coit, Amy Coit, Mark Coit and Mitchell Coit are each entitled to one fourth (1/4) of Decedent's tangible personal property and the remainder shall then pour over in to the 1981 Trust*
 - *Amy Coit, Mark Coit and Mitchell Coit are each entitled to one third (1/3) of Decedent's Trust Estate, subject to age-based distribution procedure set forth in trust documents.*
-

Note: The following documents were filed 7-13-12 in objection:

- Objection to Petition for Order Directing Transfer of Possession of Mobile Home (Page 16A)
- Statement of Interest and Response to Petition to Determine Entitlement to Distribution (Heirship);
- Response to Petition for Extraordinary Attorney's Fees and Other Instructions
- Petition for Order Setting Aside Exempt Personal Property to Minor Child; Setting Apart Probate Homestead and for Payment of Family Allowance for Minor Child (Page 16C)

Objection states:

1. Respondent, as GAL for Michael, states Petitioner has no objection to payment of litigation counsel; however, the request does not comply with Probate Code § 10811 (b) or Cal. Rules of Court 7.7.02. No declaration by Patrick Gorman was attached. Respondent agrees that it would be prudent to eliminate successive and duplicative filing fees for payments on litigation expense; however, the petition does not propose any procedure.
2. Petitioner phrases his request as a petition for instructions to determine which of Decedent's estate documents control; however, this is not the proper subject of a petition for instructions. Probate Code § 9611 provides that a petition for instructions may be brought only when no other procedure is provided by statute. But it is clear that there are a number of statutory procedures, primarily in the **Trust law**, which can be availed of to grant relief – and appropriate procedural safeguards should not be subsumed in the interest of expediency. A discussion of the various estate-planning documents is provided. Respondent states that it is anticipated that extrinsic evidence will be necessary to resolve these issues, which will require discovery, and trial if no agreement is reached.
3. Respondent opposes the proposed distribution set forth in the petition. Respondent believes based on review of the documents that Decedent intended his real property to be held in and administered under the terms of the 2005 Trust, but that all other assets, including the farming operation, be administered under the 1981 Trust. Respondent has and will seek to introduce additional evidence in support of this position.
4. Re Tuition: The issues raised are largely obviated by the recent decision that Michael will not be attending the Orme School for the 2012-13 school year. However, he will have support needs, which have been raised in the petition for family allowance (Page 16C).
5. The Creditor's Claim filed by Ms. Kennedy does not trigger the no contest clause. The claim was filed by Ms. Kennedy personally, not as GAL of Michael. The claim does not cause forfeiture of Michael's share. Probate Code § 21311 (c) states a no contest clause shall only be enforced if the no contest clause expressly provides for that application. The language is simply not there. The statutes contain no provisions dealing with "indirect contests." Thus Petitioner's allegation that the Court must determine whether the filing of a creditor's claim is a direct or indirect contest is specious. Rather than seeking to protect the interest of Decedent's son, Petitioner uses a "bootstrap" argument to try to defeat Michael's interest, raising serious questions about whether Petitioner is observing his duty as a trustee to treat all beneficiaries fairly and to act in their best interest.

SEE ADDITIONAL PAGES

PAGE 10

Respondent requests that:

- Upon presentation of a proper petition for payment of extraordinary compensation, the Court consider appropriate compensation for litigation counsel pursuant to Probate Code and Cal. Rules of Court;
- The Petition for Instructions be denied and appropriate proceeding be initiated to determine the validity of the trust instruments;
- The Court determine the appropriate distribution as evidenced by Decedent's estate planning documents and such extrinsic and additional evidence as may be presented;
- Any determination concerning payment for schooling be deferred and dealt with in the Petition for Family Allowance (Page 16C)
- The Court determine that the Creditor's Claim does not constitute a contest and the language of the trust does not expressly provide that the filing of a creditor's claim will be deemed a direct contest pursuant to Probate Code §21311(a)(3)

NEEDS/PROBLEMS/COMMENTS:

1. The original 1981 Will was never deposited with the Court. Only the original 1986 Codicil has been deposited.

For the 10-20-11 hearing on appointment, Examiner Notes noted that the original 1981 Will was not provided pursuant to Probate Code §8200, and noted that the petitioner had not petitioned for probate of a lost will pursuant to Probate Code §6124.

However, Examiner notes that the Amended Petition filed 9-7-11, although it referenced the 1981 Will and 1986 Codicil and requested appointment with will annexed, did not request that they be admitted to probate.

On 10-20-11, the Court granted the Petition and signed an Order Appointing Petitioner as "Administrator with Will Annexed;" however, the order does not admit the 1981 Will and 1986 Codicil to probate.

At this time, if the Court is now requested to admit the 1981 will to probate, the Court will readdress the issue of deposit of the original will pursuant to Probate Code §8201 (order to produce), or alternatively, require further information to make any findings necessary for probate of a lost will pursuant to Probate Code §§ 6124 (destruction with intent to revoke) and/or 8225 (admission of will to probate).

Note: Petitioner's Notice of Motion for Order Nunc Pro Tunc filed 9-14-12 regarding admission of the will to probate is set for hearing on 10-22-12.

2. The Court cannot make findings and orders with regard to Decedent's various trust instruments. This includes any findings of validity and heirship under those documents. In this estate matter, the Court is limited to determination of the controlling testamentary document(s) for the estate.

Therefore, the Court may be able to admit the 1981 Will and 1986 Codicil to probate subject to #1 above; however, any determinations with regard to trusts must be addressed separately under applicable code.

For Example: If the Court determines that *in this estate* the 1981 Will and 1986 Codicil are the controlling testamentary documents, and admits them to probate subject to #1 above, the parties would then file a separate petition in a separate trust matter, to determine the status of the 1981 Trust, since it is the beneficiary under the 1981 Will – whether it was amended or superseded by 1998 Trust or 2005 Trust, etc.

3. Statement of Interest filed 7-12-12 by Marva Critch (Represented by Attorneys Gary Bagdasarian and Steven Shahbazian) states she is also a child of Decedent and entitled to notice and a share of the estate. Birth certificate attached. Need proof of service of Notice of Hearing on Ms. Critch and her attorney.

(1) Petition for Order Setting Aside Exempt Personal Property to Minor Child and (2) Setting Apart Probate Homestead and (3) for Payment of Family Allowance for Minor Child

DOD: 7-1-11		<p>LUCIA KENNEDY, Guardian Ad Litem of Michael Coit, Decedent's minor son, is Petitioner.</p> <p>Petitioner states:</p> <ul style="list-style-type: none"> Dennis A. Maxwell was appointed as Administrator with Will Annexed on 10-20-11. Bond of \$11,460,000.00 was filed and Letters issued on 12-12-11. I&A reflects assets of \$13,257,744.58. Certain creditor's claims have been filed and the time for filing claims has passed. <p>Petitioner requests that the Court set aside to or for the benefit of Michael Coit the following property pursuant to Probate Code §6510:</p> <ul style="list-style-type: none"> All household furniture, furnishings, clothing and personal effects of the decedent located in the residence at 534 N. Lyon in Firebaugh, including any personal property of the decedent stored in, on or around said residence including carpentry and other tools located in the garage, together with any and all other property that is or would be exempt from a money judgment as described in Probate Code §6510 All household furniture, furnishings, clothing and personal effects of the decedent located in that certain structure known as "the Shack" located on that certain property known as the "Hill Ranch" located in western Fresno County where Decedent stayed from time to time <p>Petitioner states the property consists of household furniture and furnishings of good quality which were used by Decedent. Petitioner is filing a petition for a probate homestead on behalf of Michael Coit, and said personal property will be needed in the complete and full use and enjoyment of the residence by the minor child.</p> <p style="text-align: center;"><u>SEE ADDITIONAL PAGES</u></p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Continued from 8-20-12</u></p> <p>Note: Pursuant to Probate Code §6523(a): "In selecting and setting apart the probate homestead, the court <i>shall consider</i> the needs of the surviving spouse and minor children, the liens and encumbrances on the property, the claims of creditors, the needs of the heirs or devisees of the decedent, <u>and the intent of the decedent with respect to the property in the estate and the estate plan of the decedent as expressed in inter vivos and testamentary transfers or by other means.</u> [Emphasis added.]</p> <p>Examiner notes that a trial has been set for 1-15-13 on the Administrator's petition to determine controlling testamentary documents and determine heirship (Page 16B of this calendar). Examiner notes that the outcome of that trial (for controlling <u>estate</u> documents, and then petition, hearing and outcome of <u>further hearing and/or trial regarding trust matters</u> may be pertinent to the Court's consideration of this petition.</p>
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Citation			
FTB Notice			
		<p>Reviewed by: skc</p> <p>Reviewed on: 10-9-12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 16C - Coit</p>	

PAGE 2

Petitioner states: Petitioner, on behalf of Michael Coit, seeks probate homestead created in that certain property located at 534 N Lyon, which parcel consists of approx. 160 acres, a portion of which is planted with almonds and pistachios, and which parcel also contains offices and shop facilities used in Decedent's farming operation.

Located on said parcel is a double wide mobile home. From Michael's birth in 1996, this mobile home has been his residence. He attended school from 2010-2012 in Arizona, but at all times the mobile home remained his residence. He resided there with his mother Lucia Kennedy. Decedent Marvin Coit also resided in the mobile home much of that time.

As Decedent's only minor child, Michael is the only person for whom a probate homestead may be set aside. Decedent owned no other real property which is suitable for occupancy as a homestead.

Even though Michael attended boarding school the past two years, a decision was made not to return. It is intended that Michael will reside in the mobile home with his mother during the next school year and for the foreseeable future.

Petitioner Lucia Kennedy has resided in said mobile home with her son since his birth. Much of the time Decedent Marvin Coit resided there too. Such residence did not, and has not disrupted farming operations.

Decedent was not married at the time of his death. He had four other children, (Amy Coit, Kelly Maura, Mark Coit and Mitchell Coit. None of them were dependent on Decedent at the time of his death. Accordingly, Michael is the only person for whom a probate homestead may be set aside under Probate Code §6520.

Dennis Maxwell, the personal representative, has filed a petition for order directing the transfer of possession of the mobile home to the estate [Page 16A]. Petitioner has concurrently filed objections to that petition, including an objection that the mobile home is being sought as a probate homestead for Michael in this Petition.

The family allowance will not interfere with the administration of the estate – the I&A shows cash and liquid assets of more than \$2.2 million.

Michael is in need of and is entitled to a reasonable allowance from the property of Decedent's estate for his maintenance and support during the administration of the estate. Michael has no other property of his own from which income can be generated for his support.

Michael will not return to boarding school this year and it is intended that he will live on the ranch property in Firebaugh. As she did in the past, Michael's mother, Lucia Kennedy, plans to "home school" Michael, and has made arrangements through Central Valley Home School for the 2012-13 school year, which will include regular study and work under his mother's direction as well as group sessions 2-3 times a week in Kingsburg, CA to obtain certain college-preparatory subjects.

SEE ADDITIONAL PAGES

PAGE 3

Petitioner requests a total family allowance of \$6,700.00/month.

Michael's estimated monthly expenses are \$4,725.00 (details in petition). Petitioner states that if homestead is granted, no separate cash outlay for housing and other expenses will be necessary; however, the mobile home is in need of numerous repairs. If the repairs are provided by the estate, they need not be included in the family allowance. Otherwise, Petitioner will request \$500/mo for those items. Petitioner states that Michael may be able to be added to the business's health coverage. In addition, Petitioner states that Michael also anticipates the need for driving/vehicle/insurance expenses since he is now 15½ years old estimated at \$1,675/mo.

In addition, Michael is entitled to such allowance from the date of his father's death (7-1-11). Due to the delay in administration and the fact that Michael was attending boarding school, this was not previously requested. However, between July 2011 and May 2012, various expenses were incurred on Michael's behalf, including clothing, personal needs, travel to and from school, incidental school expenses, etc. Petitioner believes that \$5,500 or \$500/mo for that time frame is reasonable.

Michael is the sole individual entitled to a family allowance under PC 6540(a). His position as the only qualifying individual confers a special protection for him to receive this allowance from the estate. Cites provided. The fact that he is also a trust beneficiary does not extinguish this right.

The allowance is intended to be made in addition to, not in lieu of, his interest in the estate. Michael is eligible to receive the family allowance and his interest in the estate should not impact this right.

Petitioner requests attorney fees of \$2,500.00 for this petition plus reimbursement of \$435 filing fee.

Petitioner prays for an order:

- Setting aside personal property as described above
- Setting aside probate homestead as described above
- Family allowance of \$6,700/month commencing 6-1-12 until further order of the Court or final distribution
- Family allowance for 7-1-11 through 5-31-12 of \$500/month or an aggregate amount of \$5,500.
- Attorney fees and costs of \$2,935 plus such other amounts as may be incurred in this action

Note: Petitioner lists interested parties, but has not included Marva Critch, another daughter who has filed a statement of interest in this case. Continuance and further notice may be necessary.

Opposition was filed 5-15-12 by Administrator Dennis Maxwell. Objection states the request for probate homestead, the request for family allowance, and the request for attorney fees should be denied as prayed, with details outlined in the Opposition and reference to Probate Code §6544 re fees. Additional cites included.

[illegible]

Second Amended Sixth Account and Report of Conservator in Re:
 Conservatorship Estate and Petition for Its Settlement with Accompanying
 Declaration of John K. Ormond Re: Attorney's Fees and Costs and Petition for
 Settlement of Second Amended Fifth Account

DOD: 3-29-12		REBECCA LEWIS, Conservator, is Petitioner. Bond is \$825,601.78	NEEDS/PROBLEMS/COMMENTS: Examiner's Note: An amended petition should be <u>complete in itself</u> without reliance on, or reference to, previously filed items. This petition is filed as an amended petition to amend two separate previously filed accountings, but only provides certain amended schedules and refers the Court to <u>unspecified</u> previously filed documents rather than providing complete documentation in the convenient format set forth in Probate Code §1060.
		2nd Amended 5th Account Period: 11-1-07 through 10-31-09	
Cont. from 092812		Accounting: \$592,956.10	
	Aff.Sub.Wit.	Beginning POH: \$434,163.43	
✓	Verified	Ending POH: \$576,676.68	
	Inventory	2nd Amended 6th Account Period: 11-1-09 through 10-31-11	
	PTC	Accounting: \$736,242.50	
	Not.Cred.	Beginning POH: \$576,676.67	
✓	Notice of Hrg	Ending POH: \$723,534.39 (\$283,534.38 cash)	
✓	Aff.Mail	Petitioner states this petition is based upon and supported by documents previously filed except as replaced by the attached Summary and Schedule E (Non-Cash Assets at End of Account Period) for both the 5 th and 6 th accounts. The 5 th Account was amended to correct errors in the computation of cash assets and carry values. The 6 th Account was amended to reflect deposits in the carry values.	
	Aff.Pub.	Conservator: Not addressed in this petition. Proposed order indicates \$1,000.00.	
	Sp.Ntc.	Attorney: \$5,920.00 (14.8 attorney hours @ \$400/hr)	
	Pers.Serv.	Petitioner prays for an Order:	
	Conf. Screen	1. Notice of Hearing of this account, report and petition be given as required by law;	
	Letters	2. The Court make orders approving, allowing and settling the SIXTH account, and, awarding attorney fees and fees to the conservator; and, issue an order approving the SECOND AMENDED FIFTH ACCOUNT, as reflected on the documents filed herewith;	
	Duties/Supp	3. The Court make such other orders and grant such other relief as it considers proper.	
	Objections		
	Video Receipt		
	CI Report		
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
			Reviewed by: skc Reviewed on: 9-28-12 Updates: Recommendation: File 18 - MacIsaac

1. This petition does not address or request conservator fees. The proposed order indicates \$1,000.00; however, as noted above, this petition refers the Court to previously filed documents without specific reference to which documents. Therefore, need clarification regarding the amount requested for conservator fees.

Note: A status hearing will be set for the filing of the Seventh and Final Accounts pursuant to Probate Code §2620(b) for Friday 1-11-13 (for the period that ended on the date of death and for the period subsequent to the date of death). If the accounts are filed prior to that date, the status hearing will come off calendar.

19A Lori MacIsaac (Special Needs Trust)

Case No. 08CEPR00327

Atty Ormond, John K. (for Rebecca Lewis – Mother – Trustee)

Status Conference Re: Amended Fifth and Sixth Accounts; Seventh Accounting

DOD: 3-29-12	REBECCA LEWIS , Mother, is Trustee.	NEEDS/PROBLEMS/COMMENTS:
	On 8-10-12, the Court directed counsel to submit amended fifth and sixth accountings.	Note: On 8-24-12, Petitioner filed a Petition for Modification of Special Needs Trust and for Order Directing Distribution of Trust Assets to Claimants . See Page 3B.
<input type="checkbox"/> Aff.Sub.Wit.		1. Need amended fifth and sixth accountings.
<input type="checkbox"/> Verified		Note: A proposed order approving the amended sixth account filed 5-10-12 (previously heard on 8-10-12) was submitted for this hearing. However, Examiner notes that account is not before the Court at this time, as the Trustee was ordered to amend.
<input type="checkbox"/> Inventory		
<input type="checkbox"/> PTC		
<input type="checkbox"/> Not.Cred.		
<input type="checkbox"/> Notice of Hrg		
<input type="checkbox"/> Aff.Mail		
<input type="checkbox"/> Aff.Pub.		
<input type="checkbox"/> Sp.Ntc.		
<input type="checkbox"/> Pers.Serv.		
<input type="checkbox"/> Conf. Screen		
<input type="checkbox"/> Letters		
<input type="checkbox"/> Duties/Supp		
<input type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt		
<input type="checkbox"/> CI Report		
<input type="checkbox"/> 9202		
<input type="checkbox"/> Order		
<input type="checkbox"/> Aff. Posting		Reviewed by: skc
<input type="checkbox"/> Status Rpt		Reviewed on: 9-28-12
<input type="checkbox"/> UCCJEA		Updates:
<input type="checkbox"/> Citation		Recommendation:
<input type="checkbox"/> FTB Notice		File 3A - MacIsaac

Petition for Modification of Special Needs Trust and for Order Directing Distribution of Trust Assets to Claimants

			NEEDS/PROBLEMS/COMMENTS: Examiner Notes Not Published
	Aff.Sub.Wit.		
	Verified		
	Inventory		
	PTC		
	Not.Cred.		
	Notice of Hrg		
	Aff.Mail		
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
			Reviewed by: skc
			Reviewed on: 10-9-12
			Updates:
			Recommendation:
			File 3B - MacIsaac

Petition for Appointment of Temporary Guardian of the Person

Age: 15		GENERAL HEARING 12-3-12		NEEDS/PROBLEMS/COMMENTS:	
		RACHEL FACIO , Maternal Grandmother, is Petitioner.		1. Proof of service on the minor Jacob does not indicate that a copy of the temporary petition was served with the Notice of Hearing. 2. The Court may require further information with regard to service on the unknown father.	
		Father: UNKNOWN			
		Mother: PATRICIA ANN FACIO - Nomination, Consent and Waiver of Notice filed 10-1-12 - Declaration of Due Diligence filed 10-9-12			
		Paternal Grandfather: Unknown Paternal Grandmother: Unknown Maternal Grandfather: Chris Facio, Jr.			
		Petitioner states the minor is showing a pattern of mental instability that is associated with him living at his mother's house. A temporary order will help him receive immediate stability that is in his best interest. Both the minor and the mother agree. The minor is a 15-year old developmentally delayed bipolar ADHD child who needs stability, consistency, proper medical attention and adequate food which his mother has demonstrated she cannot provide.			
		Petitioner states the mother recently married and moved the minor to a new school. Petitioner states she enrolled him in the special education program, but did so after the start of the school year, did not meet with his teachers and have an IEP before enrolling him. In addition, Petitioner states the mother has taken him out of school whenever it is convenient for her, and he is responsible to watch his 8-year-old step-brother or do chores instead. Petitioner states that the mother's new husband teases the minor to get him to "toughen up" and the mother does not protect him. The minor has called Petitioner several times in the past few months to pick him up and get him out of negative situations.			
		Petitioner states the minor has described drug paraphernalia and told her that his mother and step-father encouraged him to smoke something. In addition, Petitioner states the mother is being evicted from her home.			
<input type="checkbox"/>	Aff.Sub.Wit.				
✓	Verified				
	Inventory				
	PTC				
	Not.Cred.				
✓	Notice of Hrg				
	Aff.Mail				
	Aff.Pub.				
	Sp.Ntc.				
✓	Pers.Serv.	w/o			
✓	Conf. Screen				
✓	Letters				
✓	Duties/Supp				
	Objections				
	Video Receipt				
	CI Report				
	9202				
	Order	✓			
	Aff. Posting				
	Status Rpt				
✓	UCCJEA				
	Citation				
	FTB Notice				